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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,635	04/12/2002	Hans Berg	4988	3877

26936 7590 05/17/2005

SHOEMAKER AND MATTARE, LTD  
10 POST OFFICE ROAD - SUITE 110  
SILVER SPRING, MD 20910

EXAMINER
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VANATTA, AMY B

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/763,635

Applicant(s)

BERG ET AL.

Examiner

Amy B. Vanatta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-26 and 28-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 19, 20, 24-26 and 32-36 is/are rejected.  
7) ☒ Claim(s) 21-23 and 28-31 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 33-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33, lines 6-7, recites "said at least one guide means" without antecedent basis. This renders the claim indefinite since it is unclear whether the guide "means" encompasses the same structure as the previously recited "guide element". It appears that "means" in line 7 should read as "element".

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19, 20, 24-26, 32-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Furst (US 3,317,979).

Furst discloses a method for leasing threads into guide elements, including leasing the threads into at least one leasing comb (thread holder 3), fastening the

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threads onto the comb 3 (col. 1, lines 45-52 and col. 2, lines 37-43), and subsequently pulling the threads with the leasing comb 3 through the treatment device (i.e. to the warper comb 15 as shown in Fig. 5). The threads are transferred to the guide elements of the comb 15 as recited in claim 19 (the guide elements comprising alternating teeth and interstices of comb 15). The device disclosed by Furst is a "treatment device" to the extent claimed, since the warping is a treatment procedure to the extent claimed, as is the beaming or deflecting of the yarns. Regarding claim 20, the leasing comb 3 is pulled in steps through the device (i.e. the comb 3 is pulled by carriage 10 and then pulled out of the clamping board 11 and pulled over the warper comb 15 as disclosed in col. 5, lines 1-23), and the movement of the leasing comb 3 is temporarily interrupted after it passes over the guide elements of warper comb 15 and is turned 90 degrees and then lowered as in col. 5, lines 1-23 (see Fig. 5). The leasing comb 3 is positioned with respect to the guide element (as shown in Fig. 5) before the threads are transferred to the guide element (15). Regarding claim 24, the threads which are on the spools of the creel as shown by Furst are from a preceding treatment procedure to the extent recited in claim 24, and are pulled with the comb 3 as claimed.

Regarding claims 25-26, Furst discloses an auxiliary device for leasing threads which is formed as a leasing comb (thread holder 3) comprising an arrangement for the ordered fastening of the threads on the leasing comb (col. 2, lines 37-53) and including leasing interstices arranged next to each other for receiving threads (see interstices shown in Fig. 6). The leasing comb has aligning elements (see teeth shown in Fig. 6) which have a spacing which is the same as that of the guide elements of the warper

comb 15 (col. 2, lines 48-53; col. 5, lines 16-17 and 24-31). Thus, the aligning elements (teeth of comb 3) function for "aligning the leasing comb onto the guide elements" as in claim 25. Regarding claim 32, the leasing comb has holding elements (clamps which attach the leasing comb to board 11) for the temporary receiving and holding of the leasing comb in receiving devices (carriage 10 with board 11) allocated to the guide elements 15 (see Figs. 5 and 10-13). Regarding claim 33, Furst discloses a guide element (15) and a leasing comb (3) on which the threads are fastenable and from which the threads may be transferred as claimed. The leasing comb (3) has aligning elements (see alternating teeth and spaces as shown in Fig. 6) which function to align the leasing comb with the guide means, and are capable of aligning the leasing comb "on" the guide means to the extent claimed, since they have a spacing which is the same as that of the guide element 15 (col. 2, lines 48-53; col. 5, lines 16-17 and 24-31). The device includes, for the guide element 15, a receiving device (10,11) for the temporary holding of the leasing comb 3, as in claim 34. Regarding claim 36, the device has at least two mounts; see mounts on each end of the beam 16 as shown in Fig. 9, for receiving warp beams. The threads are leasable into a leasing comb (3) on their way to the mount and warp beam. The threads are also guidable through the device; that is, the two mounts shown in Fig. 9 meet the recitations of claim 36 as broadly recited, and the threads of the beam also form the thread of the "other" mount and are guidable through the device, thus meeting the limitations of claim 36 to the extent claimed.

***Allowable Subject Matter***

5. Claims 21-23 and 28-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments, filed 2/7/05, with respect to the rejection of claims 19, 20, 22, 24-26, and 32 as being anticipated by Brandenberger have been fully considered and are persuasive, since Brandenberger does not disclose that the threads are fastened to the comb. Applicant's arguments, filed 2/7/05, with respect to the rejection of claims 25, 26, 28, and 32-36 as anticipated by Lichtschlag have been fully considered and are persuasive, since Lichtschlag does not disclose that the threads are fastened to the comb. Therefore, these rejections have been withdrawn. However, upon further consideration, a new ground of rejection is made, as set forth above.

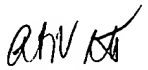
***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is 571-272-4995. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

  
Amy B. Vanatta  
Primary Examiner  
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